



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Laurence A. Levy
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1251 Avenue of the Americas
49th Floor
New York, New York
10020-1104

NOV 25 2014

RE: MUR 6699
Friends of Trey Radel and Barbara
Bisnette in her official capacity as
treasurer

Dear Mr. Levy:

On November 30, 2012, the Federal Election Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint and information supplied by your client, the Commission voted to dismiss this matter on November 20, 2014. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

If you have any questions, please contact Peter Reynolds, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

William A. Powers / KPS

William A. Powers
Assistant General Counsel

Enclosure
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENT: Friends of Trey Radel, Inc., and Barbara Bisnette MUR: 6699
6 in her official capacity as treasurer
7

8 **I. INTRODUCTION**

9 This matter was generated by a complaint, *see* 52 U.S.C. § 30105(g)(a)(1) (formerly 2
10 U.S.C. § 437(g)(a)(1)), alleging that Friends of Trey Radel, Inc., and Barbara Bisnette in her
11 official capacity as treasurer (“the Committee”) violated the Federal Election Campaign Act of
12 1971, as amended, (the “Act”) by using contributor information obtained from Commission
13 disclosure reports to solicit contributions in violation of 52 U.S.C. § 30111(a)(4) (formerly 2
14 U.S.C. § 438(a)(4)) and 11 C.F.R. § 104.15. Because the Commission concludes that further
15 enforcement action would not be an efficient use of the Commission’s resources, it exercises its
16 prosecutorial discretion to dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

17 **II. FACTUAL AND LEGAL ANALYSIS**

18 **A. Facts**

19 Trey Radel and Chauncey Goss were opponents in the 2012 Republican primary in
20 Florida’s 19th Congressional District.¹ During the primary, the Goss campaign filed two
21 “salted” disclosure reports listing a contribution attributed to the pseudonym “Shirley A. Wood”
22 with the home address of its campaign manager, Sheryl Wooley.² Compl. at 1; *see* 2011 Year-
23 End Report at 27, 2012 July Quarterly at 15. In September 2012, during the general election,
24 Wooley received a fundraiser invitation from the Committee at her home address; the invitation

¹ Radel won the primary election on August 14, 2012, and went on to win the general election.

² Section 30111(a)(4) (formerly 2 U.S.C. § 438(a)(4)) of the Act allows political committees to submit ten pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, provided such committee attaches a list of such pseudonyms to the appropriate report. *See also* 11 C.F.R. § 104.3(e). Pseudonyms used pursuant to 52 U.S.C. 30111(a)(4) (formerly 2 U.S.C. § 438(a)(4)) are commonly called “salted” names.

1 was addressed to the salted name. *Id.* The Goss campaign then filed this Complaint alleging that
2 the Committee violated the “sale and use” provisions by using contributor information contained
3 in FEC reports to solicit funds. Compl. at 1; *see* 52 U.S.C. § 30111(a)(4) (formerly 2 U.S.C.
4 § 438(a)(4)) and 11 C.F.R. § 104.15.

5 The Committee does not dispute that it solicited contributions using contributor
6 information that was derived from FEC reports, but represents that “[a]t no time did the
7 Committee sanction, suggest or knowingly use any information obtained from FEC reports for
8 the purpose of soliciting contributions to the Committee.” Resp. at 1. The Committee asserts
9 that upon notification of the complaint, it conducted an internal investigation that revealed that a
10 campaign volunteer, David Stokes, was the source of the salted name. Stokes reportedly gave
11 the Committee five donor lists, which it added to a consolidated fundraising list that was used for
12 a mass mailing of the invitation received by Wooley. *See* Resp. Pusateri Aff. Ex. 2, ¶¶ 12, 15-
13 16. Specifically, on September 8, 2012, Stokes sent Trey Radel an email attaching three donor
14 lists purportedly containing the names of donors in Lee County (which fell in the 19th
15 Congressional District) who had previously donated \$1,000 or more to Republican candidates.
16 *Id.*; *see also* Resp., Ex.1. Of the three Lee County donor lists, the Committee provided only one
17 with its response. This list included the salted name and 14 others. Resp., Ex. 2. In addition to
18 the Lee County donor lists, the Committee states that Stokes forwarded two more donor lists to
19 the Committee: one including “high dollar donors in Collier County” (which also fell within the
20 19th Congressional District) and one including doctors. *See* Resp. Pusateri Aff. Ex. 2, ¶ 12.
21 During the Committee’s internal investigation, Stokes reportedly admitted that “he had taken
22 some of the names [on the lists] from the published donor lists on the FEC website,” but asserted
23 that he did not know that this practice was prohibited. *Id.* at ¶ 20.

1 The Committee asserts that it had no “reason to believe that the lists provided by Mr.
2 Stokes may have been compiled improperly.” *Id.* at ¶ 17. The Committee explains that no one
3 questioned the lists because Stokes was “an active volunteer in Republican politics in the area
4 and a recent volunteer” for another primary campaign. *Id.* at ¶¶ 9; *see also id.* ¶ 17-18. It notes,
5 moreover, that upon receipt of the Complaint, the Committee conducted an internal
6 investigation, *id.* at ¶¶ 17-18, and that once the Committee determined Stokes was the source of
7 the salted name, it informed him that his actions were improper.³ The Committee states that it
8 has retained a professional expert to assist in FEC reporting and fundraising, intends to send at
9 least one representative of the Committee to an FEC seminar, and is working with counsel to
10 develop mandatory training for staff and volunteers of future campaigns. *Id.* at ¶¶ 26-27.

11 B. Analysis

12 Political committees are required to file reports with the Commission identifying the
13 names and mailing addresses of contributors. 52 U.S.C. § 30104(b)(2)(A) (formerly 2 U.S.C.
14 § 434(b)(2)(A) and (b)(3)(A)); 11 C.F.R. § 104.8(a). The Act provides that the Commission
15 shall make reports and statements filed with it available to the public for inspection and copying
16 within 48 hours after receipt. 52 U.S.C. § 30111(a)(4) (formerly 2 U.S.C. § 438(a)(4)). Any
17 information copied from such reports or statements, however, “may not be sold or used by any
18 person for the purpose of soliciting contributions or for commercial purposes,” other than using
19 the name and address of a political committee to solicit contributions from that political
20 committee. *Id.*; *see also* 11 C.F.R. § 104.15(a). “Soliciting contributions” includes soliciting
21 any type of contribution or donation, such as political or charitable contributions. 11 C.F.R.
22 § 104.15(b).

³ The Committee requested that Stokes sign an affidavit acknowledging his actions. *Id.* at ¶¶ 20-24. Although Stokes was reportedly initially cooperative, he retained an attorney and ceased his cooperation. *Id.* at ¶ 23.

1 While the Committee may have violated 52 U.S.C. § 30111(a)(4) (formerly 2 U.S.C.
2 § 438(a)(4)) and 11 C.F.R. § 104.15 by using contributor information obtained from FEC
3 disclosure reports filed by the Goss campaign for the purpose of soliciting contributions, the
4 Commission concludes that further enforcement action would not be an efficient use of the
5 Commission's resources. The Committee does not dispute that it solicited contributions using
6 contributor information that was derived from FEC reports. The available information,
7 however, shows that the actions of the Committee's volunteer resulted in an inadvertent use of
8 FEC published data. Furthermore, the Committee has conducted an internal investigation, and
9 upon discovering Mr. Stokes's actions, taken corrective actions and implemented measures
10 intended to safeguard against similar future uses of FEC data. *Id.* at 3. In light of these facts, the
11 Commission exercises its discretion and dismisses the matter.